

CONDITIONS OF DISCLOSURE

2221

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Personal information may be disclosed only under the following conditions (CC Section 1798.24):

- Requests from the individual to whom the record pertains must be accompanied by adequate identification.
- Requests for information must include prior written consent from the subject individual. Written consent is valid for 30 days or other time limit if specified in the authorization.
- When a guardian or conservator of the subject individual, or a person representing that individual requests such information and it can be proven with reasonable certainty that such person is the authorized representative of the individual.
- When necessary for the performance of their official duties and related to the purpose for which the information was acquired, to the employees of the agency maintaining the information.
- When necessary for an agency to accomplish its constitutional or statutory duties, personal information may be transferred if the use is compatible with a purpose for which the information was acquired.
- When required by state or federal law, personal information may be disclosed to a government entity.
- For statistical research or reporting purposes, if adequate written assurance is given that the information will be used for no other purpose, and the information is disclosed in a form that will not identify any individual.
- When compelling circumstances exist which affect the health or safety of an individual as determined by the agency maintaining the information, if, upon the disclosure, the individual to whom the information pertains is notified through his or her last known address. Disclosure shall not be made if it is in conflict with other state or federal law. Record these disclosures on a log in the individual's record.
- Pursuant to a subpoena, court order or other compulsory legal process, if, before the disclosure, the agency reasonably attempts to notify the individual to whom the record pertains, and if such notification is not prohibited by law. Record these disclosures on a log in the individual's record.

- Pursuant to a search warrant, record these disclosures on a log in the individual's record.
- Pursuant to Article 3, Chapter 1, Division 2 of the California Vehicle Code.
- When verifying and paying government health care service claims.
- When required for investigation of criminal activity to a law enforcement agency, unless such disclosure is otherwise prohibited by law. Record these disclosures on a log in the individual's record.
- Pursuant to a personal or governmental request to the extent necessary to obtain information from that person or governmental organization to conduct an investigation of a possible violation of state law which the agency is responsible for enforcing. Record these disclosures on a log in the individual's record.
- Pursuant to an adopted person's request, the information is limited to general background and medical information of the person's natural parents, providing such information does not include or reveal the identity of the natural parents.
- Pursuant to a committee or member of the Legislature's request, when permission from the individual to obtain the information has been presented.
- Pursuant to a request of the University of California or a nonprofit educational institution conducting scientific research when the request includes: (1) the need for the information, (2) procedures for protecting the confidentiality of the information, and (3) assurances that the identity of the subject will not be disclosed.
- Pursuant to the California Public Records Act, this policy shall not be interpreted to permit the disclosure of personal information which would clearly be detrimental to the reputation or rights of an individual.
- To an insurer if authorized by Chapter 5, commencing with Section 10900 of Division 4 of the California Vehicle Code.

Disclosure of information to an agency representative pursuant to a specific law shall be restricted to the data provided by law and not the entire record.

Any person obtaining personal information from a state agency should be advised not to redisclose it. The individual to whom the information pertains can sue for damages in case of unauthorized redisclosure (CC Section 1798.53).

Disclosures made of records which include disputed portions must include statements by the individual and the agency regarding any part of the record on which there is disagreement (CC Section 1798.37).

When discretion is allowed, the protection of privacy should override the option to disclose (CC Section 1798.63).

Disclosure to a district attorney applies when a law enforcement or requesting agency requires information, when required by state or federal law and when an agency needs information to perform its court or statutory duties (CC Section 1798.24, e,f, and o) (CC Section 1798.68).

Disclosure is required to the individual to whom the information pertains, or his/her representative, unless the information may be withheld according to CC Sections 1798.38 and 1798.40.

Disclosures of medical information is governed by the Confidential Medical Information Act, Section 56, et seq. of the Civil Code. This statute specifies under what conditions health care providers may disclose medical information and the conditions under which an employer's administration of health care plans may use and redisclose it. It also specifies a valid authorization or release for disclosure.

Upon confirmation by a guardian (parent, conservator) that he/she is the legal representative of a minor child, disclosure of information pertaining to the minor child may be released. The department will obtain appropriate documentation from the guardian (parent, conservator) before disclosure of information.

Before disclosure of personal information within the department is given, a determination needs to be made of whether the information requested is relevant and necessary for an officer, employee, attorney or agent of the department to do his/her job. Disclosures between the department and other state agencies should follow this same procedure. Employment information to employers outside the department or state service could fall under 1978.24(e), Compatible Purpose or 1798.24(g), Public Record. Caution should be taken when providing negative information. When disclosure of personal information is made to another state agency it must be:

- a. necessary for the requesting agency to perform its constitutional or statutory duties and
- b. compatible with a purpose for which the information was collected and
- c. accounted for each time it is disclosed pursuant to 1798.25.

When disclosing information to persons and entities other than state agencies, b. and c. must comply. Requirement a. only applies to state agencies. Compatible with a purpose means the use of information for any purpose specifically authorized or required by law. For example, exchanges of performance related data between state employers are considered compatible with a purpose.

When disclosing information to federal and local government entities required by law, the Information Practices Act defers to other laws which require disclosure. (i.e., When a county welfare department or district attorney requests information to assist them in locating parents of children on welfare [Section 11478 Welfare and Institution Codes]). If there is doubt of a requestor's legal authority to obtain information, the department may ask the requesting government entity to cite its legal authority unless the information would normally be disclosed under the Public Records Act (PRA).

When disclosing personal information to the public, the department is required to exercise care in order not to violate an individual's right of privacy or create a cause of action on other grounds. The Public Records Act is based on the premise that government records should be open for public inspection. Exceptions to the general premise are made to protect personal privacy (GC Section 6254 c). As information relates less to public activities, plans, decisions and policy and more on the private life of individuals including public officers and employees, the privacy exemption in the Public Records Act may and should be invoked. A state employee's home address and telephone number are exempt from disclosure under the Public Records Act with specific exemptions (GC Section 6254.3).

The information the department will provide to the public concerning a departmental employee is:

- a. name
- b. name of unit
- c. work location
- d. classification
- e. job description, duties and responsibilities
- f. gross salary rate
- g. date appointed/separated
- h. time base e.g., full time, part time
- i. tenure e.g., permanent/probationary
- j. cost to the state for training, travel, attendance at conferences, etc.

In the case where an employee maybe subjected to harm because of the nature of his or her job or unique personal circumstances, exceptions to this general policy will be made.

Performance evaluations are not to be considered open for public inspection unless they are of issue in an adversary proceeding. Adverse actions may not always be a matter of public record, however, such actions filed with the State Personnel Board become accessible to the public, just as hearings on appeals with the rare exceptions to protect minors, wards and patients under special circumstances.

Disclosing personal information to an individual to whom it pertains does not waive the privilege to withhold it from another member of the public (GC Section 6254.5).

Disclosing information to public officers and employees acting within the scope of their public duties does not waive the privilege to withhold it from another member of the public because those officers and employees are not considered members of the public for the purposes of the PRA (GC Section 6252(f)).

Although personal information may be a public record somewhere, e.g., the county courthouse, it does not mean it may forever be redisclosed.

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